IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 29.08.2006

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM
and
The Hon'ble Mr. Justice S.MANIKUMAR

H.C.P.No.535 of 2006

Appu @ Santhanakumar .. Petitioner

-vs-

1.The Commissioner of Police,
Greater Chennai,
Chennai 600 008.

2.The Secretary to Government,
Prohibition and Excise Department,
Fort St.George,
Chennai 600 009. .. Respondents

Petition filed under Article 226 of the Constitution of India to issue a Writ of Habeas Corpus to call for the records of the first respondent in Memo No.103/BDFGISV/2006 dated 5.4.2006 setting aside the order of detention passed therein and direct the respondents to produce the petitioner before this Court namely Appu @ Santhanakumar, S/o Subbiah confined in Central Prison, Chennai before this Court and set the petitioner at liberty.

For Petitioner : Mr.R.Ravichandran

For Respondents : Mr.M.Babu Muthu Meeran,
Addl. Public Prosecutor

O R D E R

(Order of the Court was made by P.SATHASIVAM, J.)

The petitioner, who is detained as a "Goonda" as contemplated under the Tamil Nadu Prevention of Dangerous Activities of Boot-leggers, Drug Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Slum Grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14, 1982), by the impugned detention order dated 05.04.2006, challenges the same in this petition.

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2. Heard the learned counsel appearing for the petitioner as well as the learned Additional Public Prosecutor.

3. At the foremost, learned counsel for the petitioner submitted that the representation dated 20.05.2006 has not been properly considered by the Government and on that ground, the detention order is to be interfered with. In support of the above contention, learned counsel for the petitioner, after taking us through the reply dated 01.06.2006 of the Government, contended that though the detenu has asked for translated copy of document Nos.18 and 19, though the said documents have been properly translated, in fact, they were not supplied to the detenu.

4. As against the said contention, the learned Additional Public Prosecutor has brought to our notice that document Nos.18 and 19 relate to adverse cases. Hence, even if translated copies are not supplied, in the absence of any prejudice on the part of the detenu, the detention order cannot be faulted with.

5. We verified the document Nos.18 and 19 which are Accident Register and Injury Certificate of the Doctor. It is not in dispute that both the documents relate to adverse cases. It is also not in dispute that the documents relating to ground case have been duly supplied to the detenu. Though in the reply, the Government has stated that the English version of those documents have been properly translated, in view of the fact that the said documents relate to adverse cases and taking note of the fact that all required materials relating to ground case have been furnished to the detenu, we are satisfied that no prejudice is caused to the detenu. Accordingly, we reject the first contention.

6. According to the learned counsel for the petitioner, though it is stated that the detenu hurled soda bottle at the time of the alleged commission of offence, in the absence of a petty shop in the scene of occurrence, the conclusion arrived at by the detaining authority cannot be accepted and the detention order is liable to be quashed.

7. Here again, we are unable to accept the said contention, since even in the First Information Report, there is a specific reference to soda bottle being used by the detenu and his co-accused. The sketch relating to the scene of occurrence which is available at page No.138 of the paper Booklet supplied to the detenu shows that there were several shops near the scene of occurrence. Further, the use of soda bottle by the detenu and his co-accused has been specifically noted in the observation mahazar which is available at page No.139.

8. Learned counsel for the petitioner finally submitted that though the detenu was brought to Police Station only at 20.30 hours

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on 28.02.2006, the confession statement was recorded at 13.00 hours on 28.02.2006. According to the learned counsel for the petitioner, when the detenu himself was brought to the Station only at 20.30 hours, the alleged confession at 13.00 hours cannot be true.

9. Learned Additional Public Prosecutor has brought to our notice that the complaint was made at 09.30 hours on 28.02.2006 and the detenu was arrested at 13.00 hours. Thereafter, confession statement was made by him at 14.00 hours.

10. The contention of the learned Additional Public Prosecutor is clear from the statement which is available at page No.149 of the paper booklet supplied to the detenu and that there is no discrepancy or violation, as claimed by the learned counsel for the petitioner. Accordingly, we reject the said contention.

11. In addition to what is stated above, it is relevant to point out that by our elaborate order dated 25.08.2006 in H.C.P.No.534 of 2006, which is a case of co-accused by name Ganesan @ Bomb Ganesan, we confirmed the order of detention and dismissed the H.C.P.No.534 of 2006 filed by him.

13. In the light of what is stated above, we find no valid ground for interference. Consequently, the petition fails and the same is dismissed.

Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

gms

To

1.The Commissioner of Police,
Greater Chennai,
Chennai 600 008.

2.The Secretary to Government,
Prohibition and Excise Department,
Fort St.George,
Chennai 600 009.

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3. The Public Prosecutor,
High Court, Madras.

4. The Superintendent,
Central Prison,
Chennai

5. The Joint Secretary to Government
Public Law and Order Department,
Chennai-9.

1 cc to Mr.R. Ravichandran, Advocate, Sr. 39158

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